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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

TERESSA PALOZZI, an individual

 Plaintiff,

 v.

 VICKY MARTINEZ, H. ED., an
 individual, and NORTH COUNTY
 HEALTH SERVICES (NCHS)
 RAMONA, and DOES 1-20,

 Defendants.

Case No.: 14CV0794-JM-BGS

**NOTICE OF SUBSTITUTION OF
 THE UNITED STATES OF AMERICA
 AS DEFENDANT IN PLACE OF
 VICKY MARTINEZ, H. ED., AND
 NORTH COUNTY HEALTH
 SERVICES (NCHS) RAMONA**

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that the United States of America, through its attorneys, Laura E. Duffy, United States Attorney, and Paul L. Starita, Assistant U.S. Attorney, hereby notifies all parties and the Court that by operation of law, to wit, 42 U.S.C. §§ (a) and (g), and 28 U.S.C. § 2679(d), as amended, the United States has been substituted as a defendant, in place of Vicky Martinez, H. Ed., as to the common law tort claims plaintiff's complaint alleges against Vicky Martinez, H. Ed., that arise out of her acts or omissions which occurred on or after January 1, 2013. The United States also has been substituted as a defendant in place of North County Health Services (NCHS) Ramona ("NCHS Ramona") as to the common law tort claims plaintiff alleges against it,

1 that arise out of its acts or omissions which occurred on or after January 1, 2013. This
2 substitution is based upon the following:

3 1. On or about October 16, 2013, plaintiff initiated this action as Case No. 37-
4 2013-00071557-CU-MM-CTL in the Superior Court of California, County of San Diego.
5 Plaintiff named as a defendant NCHS Ramona, a federally supported health center.
6 Plaintiff also named as a defendant Vicky Martinez, H. Ed., a prenatal coordinator at the
7 health center. The complaint alleges claims for medical negligence against Vicky
8 Martinez, H. Ed., and NCHS Ramona.

9 2. Pursuant to the Federally Supported Health Centers Assistance Act, 42
10 U.S.C. §§ 233(g) - (n), as amended, the Secretary of Health and Human Services has
11 deemed Vicky Martinez, H. Ed., and NCHS Ramona to be an employee of the Public
12 Health Service for purposes of the Federal Tort Claims Act only, effective January 1,
13 2013. The United States Attorney for the Southern District of California, through his
14 designate, has certified that Vicky Martinez, H. Ed., and NCHS Ramona were acting
15 within the scope of employment at the time of the incidents alleged in the complaint, and
16 that pursuant to 42 U.S.C. § 233(g), Vicky Martinez, H. Ed., and NCHS Ramona are
17 deemed to be an employee of the Public Health Service for Federal Tort Claims Act
18 purposes only, for any acts or omissions alleged against it in the complaint, which
19 occurred on or after January 1, 2013. A copy of the certification was filed with the
20 Notice of Removal.

21 3. The United States Attorney for the Southern District of California, through
22 his designate, has certified, pursuant to 28 U.S.C. § 2679(d), as amended, that Vicky
23 Martinez, H. Ed., was acting within the scope of her employment at NCHS Ramona with
24 respect to the events giving rise to the complaint, which occurred on or after January 1,
25 2013. A copy of the certification has been filed concurrently with this Notice. Because
26 the claims against Vicky Martinez, H. Ed., arise within the scope of her official duties as
27 an employee of NCHS Ramona, she has been deemed to be an employee of the Public
28

Health Service pursuant to the Federally Supported Health Centers Assistance Act. For purposes of liability, the torts alleged in the complaint against NCHS Ramona and Vicky Martinez, H. Ed., are deemed to have been brought against the United States under the provisions of the Federal Tort Claims Act, 28 U.S.C. §§ 2671 et seq. (“FTCA”). See 42 U.S.C. § 233(c).^{1/} Plaintiff’s remedy against the United States is exclusive of any other civil action or proceeding involving the same subject matter and claims against NCHS Ramona and Vicky Martinez, H. Ed., based on acts or omissions which occurred on or after January 1, 2103. 42 U.S.C. §§ 233(a) and (g).

WHEREFORE, this action properly is deemed an action under the FTCA, solely against the United States as a substituted defendant in place of NCHS Ramona and Vicky Martinez, H. Ed., who are entitled to dismissal, with prejudice, as to the common law tort claims raised in the complaint, since said common law tort claims are precluded pursuant to 28 U.S.C. § 2679(b)(1) and 42 U.S.C. §§ 233(a) and (g).

Filed concurrently herewith for the Court’s consideration is a proposed Order of Substitution.

DATED: April 4, 2014

LAURA E. DUFFY
United States Attorney
s/ Paul L. Starita
PAUL L. STARITA
Assistant U.S. Attorney
Attorneys for Defendants
Vicky Martinez, H. Ed.,
North County Health Services (NCHS)
Ramona, and United States of America

^{1/} The Secretary of Health and Human Services deemed NCHS Ramona and Vicky Martinez, H. Ed., to be employees of the Public Health Service for purposes of the Federal Tort Claims Act only, effective January 1, 2013. Any acts or omissions of NCHS Ramona and Vicky Martinez, H. Ed. that occurred prior to January 1, 2013, are not covered by the Federal Tort Claims Act.